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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,075	04/07/2004	Michael J. Mastalir	335.891	7227
23598	7590	08/30/2005	EXAMINER	
BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ, S.C. 250 E. WISCONSIN AVENUE SUITE 1030 MILWAUKEE, WI 53202			MCCURDY, JOSHUA D	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/820,075

Applicant(s)

MASTALIR ET AL.

Examiner

Joshua D. McCurdy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-14, 16-18 is/are rejected.
- 7) ☒ Claim(s) 7-9, 15, 19-24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, because the following limitation is indefinite and fails to distinctly claim for reason of indefinite language as used in the following limitation: "...such that support member moves relative to the upper end of the support member upon vertical adjustment of the column." It is unclear how the support member can move relative to itself. For the purpose of the prior art search based on the merits of the claim, the above limitation is interpreted based on the specification as having the support member move up and down relative to front cover member, or vertical panel, so that the upper part of the front panel retracts into the support member.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 10-14, 16-18, 21, and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Randolph (5,437,235).

- With respect to independent claims 1, 10, and 16, Randolph discloses an adjustable-height work station or desk (Col. 1, lines 5-28), that is considered a lectern, or podium, based on the American Heritage Dictionary definitions of lectern and podium, wherein each is defined as a stand for holding the notes of a public speaker. A lectern is further defined as a reading desk, with a slanted top, for holding a public speaker's books. Randolph teaches such a slanted desktop in Figures 2, 5, 10, and 12.
- With respect to claims 1, 2, 5, 10, 11, 16, and 17, Randolph teaches a work station with a base comprising an elongated foot, which is itself a base, for each of two legs supporting the desktop (Col. 8, lines 39-58; Figs. 18-20). Each leg is a rectangular, vertically telescoping column with a lower section connecting to a base, with the lower section extendable and retractable within a recess in the upper section of the column, to thereby adjust the height of the desktop surface (Col. 8, lines 40-53; Figs. 18-20). Randolph also teaches a rectangular column for the monitor platform (Col. 1, lines 36-49; Col. 10, lines 55-65; Figs. 24-25).
- With respect to claims 1, 12, 13, 14, 16, 18, 21, 23, and 24, regarding a support member and well, Randolph teaches a component pan that anticipates such a support member, being mounted to the upper portions of the respective, upright, telescoping columns (Col. 1, lines 19-28; Col. 8, lines 39-58), providing an interior chamber for electrical equipment, a recessed support platform for a monitor, and an enlarged recess to

accommodate an adjustable keyboard support platform mounted to the underside of the desktop (Col. 5, lines 60-68; Col. 6, lines 1-4; Figs. 1-12, 14-20, 23-25). The support member, or component pan, has deep sidewalls and provides space for mounting communication terminals, electrical power outlets, computers, expansion chasses, and other electrical and mechanical components in an out-of-sight position below the desktop, yet providing an opening for easy access to them (Col.1, lines 49-64). Figure 8 also includes a view of Figure 7 that shows the incorporation of electrical outlets and communications outlets in the interior of the support pan (Col. 2, lines 53-57).

- With respect to claim 2, Randolph teaches two columns with vertical adjustment mechanisms inside, with the columns comprising two extendable and retractable columns connected between the base and support member (Col. 8, 41-61; Figs. 19-20), where the columns connect with the component pan (support member), on opposite sides, and the desk top (Claim 15).
- With respect to claims 3, 4, 5, 6, and 18, Randolph teaches the use of conventional linear actuators for height adjustment of his telescoping columns, with one embodiment using mechanical, motorized, pneumatic, or hydraulic drive mechanisms to drive or actuate the telescoping columns (Figs. 19 and 20); mechanical screw mechanisms and electric motors (Col. 6, lines 38-43) are disclosed as additional means, while another

conventional threaded rod assembly can actuate the monitor support leg (Col. 10, lines 59-66; Fig. 24). Figure 24 shows a linear, telescoping column connecting the monitor stand to component pan (support member). In Figures 19 and 20, Randolph anticipates the stationary, tubular member connected to the base of each leg, actuated by a conventional assembly comprising a motor inside the component pan, but with the type of threaded member shown in Figure 24, in which case the tubular portion is opposite the motor in the component pan and therefore anticipates the tubular member opposite the motor on the telescoping assembly. Randolph discloses both types of actuators as equally applicable to his invention, adding that drive mechanisms of that sort are conventional so details are not shown (Col. 8, lines 54-55). With respect to claim 6, the telescoping mechanisms are contained within the columns and are therefore considered as covers for the threaded and rotating, telescopic assemblies.

6. Claims 10, 12, 15, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Leday (5,927,213).

- With respect to claim 10, Leday teaches an adjustable, multi-purpose table (Abstract; col. 1, lines 6-9; col. 1, lines 41-45) with two columns, or stanchions, attached to the base of a frame and an upper element that supports a set of plates of which some are motile and the others fixed (Col. 1, lines 48-57; Col. 2, lines 8-13). An auxiliary plate moves horizontally relative

to a fixed plate and is designed as a computer keyboard support (Col. 1, lines 62-65) and is shown in Figures 1 and 9 in its recessed or retracted position; Figure 8 shows the keyboard support both extended and retracted, and moveable with an intermediate plate (also moveable).

- With respect to claims 12, 15, and 22, Figures 1-3, 8, and 9 of Leday teach a recess beneath a set of plates (Fig. 9) that constitute a desktop and multiple work surfaces, where the various plates are both fixed and moveable (Figs. 2 and 3), and include a keyboard support (Figs. 3 and 8) where the keyboard can extend relative to its closest overlying plate; the overlying plates can also slide apart, or aside, to reveal the recess as shown in Figure 8 with the intermediate plate. Figure 6 also shows various configurations of plates, with as many as three plates overlying the keyboard support; however, Figure 6 does not show the full enclosure of the keyboard recess, as does Figure 9.

### ***Allowable Subject Matter***

14. Claims 7, 8, 9, 19, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The above references, Randolph and Leday, do not anticipate the limitation in claim 7 for a single, unbroken cover section to extend from the base into the support member so that the front appearance of the lectern is unchanged when height is adjusted. The section between

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the columns in Leday does not meet these criteria, nor is there a second cover member extending between the legs or columns, as limited in claims 19 and 20.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D. McCurdy whose telephone number is 571-272-5923. The examiner can normally be reached on M-F, 8:30 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S. Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 10, 2005

Joshua McCurdy  
Examiner  
Art Unit 2837



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